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*United States Marine Corps
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Quantico, Virginia 22134-5068*

MASTER OF MILITARY STUDIES

**Counter Piracy
A More Comprehensive Approach**

SUBMITTED IN PARTIAL FULFILLMENT
OF THE REQUIREMENTS FOR THE DEGREE OF
MASTER OF MILITARY STUDIES

**Claude Lee Poole
Special Agent**

AY 11-12

Mentor and Oral Defense Committee Member: Jonathan F. Phillips, PhD
Approved: [Signature]
Date: 23 April 2012

Oral Defense Committee Member: ERIC SHIBUYA, PhD
Approved: [Signature]
Date: 25 April 2012

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Executive Summary

Title: Counter Piracy; A More Comprehensive Approach

Author: Special Agent Claude Poole, Diplomatic Security Service

Thesis: A policy of kinetic and non-kinetic engagement within the littorals would be more beneficial to curbing piracy attacks on commercial shipping than trying to patrol the open ocean.

Discussion: Since the fall of the Somali regime in 1991 there has been explosive growth in the number of acts of piracy off the coast of Somalia. International pressure to curb piracy in the region has been largely ineffective. Without Somalia as a stable partner in policing the area off their coast, piracy will continue to be a threat to global commerce and to the national security of the United States in terms of energy security and access to the global commons. Through the United Nations, coalition partners are engaged with Somalia on several levels to bring stability to the region. The efforts do not center on military engagement, but are focused primarily on providing security to Somalia. While these discussions take place on shore, traditional blue water navies are actively deterring pirates in the region. This paper argues that blue water engagement will continue to be ineffective and a costly endeavor for those nations involved. A shift in strategy that allows limited kinetic activity on shore when necessary is required to curb piracy in the area. Moreover, assistance to the Somali government that will allow the Somalis to conduct policing actions and build capacity is required.

Conclusion: Piracy in Somalia is both a Somali problem and a global one. Strategic trade routes need to be left unmolested to promote a safe and secure environment for global trade to occur. The current strategy of interdiction and deterrence at sea is largely ineffective against the Somali based pirate operations. Accordingly, failure to shift our focus to the littoral regions will have severe cost implications as well as impact on our national security. In other words, counter piracy operations should be directed on shore where piracy starts.

Preface

The idea for this paper has been in the making for me since 2003, at least a decade after the collapse of Somalia. Originally my interests were centered on counter piracy in the region surrounding the Malacca Strait. I have found that while this region is still of interest to me, the activity surrounding Somalia requires critical attention.

I'd like to express my gratitude to Dr. Jonathan Phillips, Associate Professor of Military History, Marine Corps University, for his guidance and assistance in focusing my paper. Also, I would like to thank Colonel Mark Strong, U.S. Army, for his insight into Special Operations and its employment. Most of all, I would like to thank my wife, Maya, and my family for their patience while I researched this paper and wrote into the late hours.





Figure 2. Political Map of Somalia, 2010²



Figure 3. Map of Horn of Africa³

Introduction

Piracy off the east coast of Africa is increasing despite the presence of United States and other coalition naval forces.⁴ The coalition's current interdiction strategy has, if anything, motivated pirates to revise their strategy and expand their area of operations into the greater Indian Ocean. As a result, the world's most powerful navies have not improved security in one of the most economically and strategically significant sea-lanes.

The majority of the global community agrees that piracy is a symptom of the failure of Somalia as a state.⁵ There is less agreement, however, as to how best to cope with this threat.⁶ Some nations are still firmly committed to not using force on Somali soil while others are considering more aggressive operations within Somalia's borders. While the solution will not be easy or quick to resolve, the antipiracy coalition should expand and reorient its strategy to include coastal and on shore operations. A proactive approach that focuses on the source and root causes of criminality in Somalia and includes kinetic military operations, humanitarian relief, and long term development will do *far* more to contain piracy than current operational strategy.⁷ With the adoption of a long-term littoral strategy, the coalition can address the desperate economic and unstable political conditions that have driven large numbers of young Somali men to the dangerous life of crime on the high seas. Piracy can be reduced to a manageable level, but only if Somalia becomes a legitimate state with a functioning economy. To develop these ideas further, a discussion of those options politically, legally and ethically available to the U.S. and her coalition partners should be considered and conventional wisdom challenged.⁸

This essay will begin by briefly reviewing America's first counter piracy operations and consider the extent to which these efforts are relevant to the challenges that the United States and

its coalition partners face in the Red Sea and off of Somalia. It will then present the legal justification for international counter piracy efforts. The following section examines ongoing coalition antipiracy efforts and demonstrates the need to shift and expand current strategy. The final section considers the long-term plan for helping Somalia return to the community of legitimate and economically productive nations. In assessing the long-term plan special attention will be devoted to security and governance, law enforcement and judicial reform, and economic development.

Background

Freedom of navigation on the world's oceans is a crucial requirement for open and capable lines of communication for the United States and its global partners in trade.⁹ The strategic value lies in the amount of commodities that transit the Horn of Africa (HOA) region yearly. With eleven percent of the world's oil supply passing through the Gulf of Aden en route to Europe, the U.S., and Asia each year, the global strategic importance on having a route free from the threat of piracy is unquestionable.¹⁰

The United States is not completely unfamiliar with combating piracy in the waters surrounding Africa or the process of paying tribute to pirates. One of the driving factors in the drafting of the United States Constitution was that the framers realized they were powerless to prevent the taking of merchant ships and the holding of "citizens" of the United States by the Barbary pirates.¹¹ In the late eighteenth century the United States was suffering the economic impact of an expensive war for its independence with Britain and was not in the fiscal position to continue paying the large tributes to the North African pirate kingdoms like the Europeans were

doing.ⁱ Moreover, it did not sit well with the pride of the United States people in their spirit of independence and freedom.¹² In 1786, Thomas Jefferson's appeal to the Europeans to form a coalition to combat the pirates fell upon unreceptive ears and the United States was forced to act unilaterally in countering piracy.¹³ France too, would find the Treaty of 1778, which committed the French to aiding America if her ships were attacked by the Barbary, too burdensome at that time to observe.¹⁴ Fortunately, the United States is not confronted with the same rejection that Thomas Jefferson faced in forming an international coalition of like-minded states to counter piracy. The U.S. was forced to continue paying tribute to the pashas until an adequate naval force could be raised to resist the Barbary demands. Not until after the United States had defied the demands for tribute through combat and diplomacy, would the Europeans follow suit and discontinue paying tribute to the pirate kingdoms of North Africa.¹⁵ The endeavor was drawn out and gave birth to heroic actions such as Stephen Decatur's on the coast of Tripoli. The actions also included the use of forces on the ground to apply pressure to the Tripolitans to bring the war to an end.¹⁶ Now, just as it was at the formation of the republic, the free and open east-west trade routes have come under pressure from pirates operating out of those regions of Africa which have become known as failed states and the prospect of placing military forces on the ground in Somalia seems appropriate.

Although on the surface one could draw a comparison between the actions Barbary pirates of the eighteenth and early nineteenth centuries to those acts of piracy perpetrated by Somali pirates, a review of the two shows there are some subtle differences.¹⁷ The Barbary

ⁱ The practice of paying tribute to the Barbary States was widely practiced by those sea faring nations that plied the Mediterranean waters in the late eighteenth and early nineteenth century. This was a less costly alternative to waging war with the pirates. The threat of British naval forces retaliating for acts of piracy after a tribute had been paid made this a viable system. After the US declared its independence from Britain, the US was left to defend its own interests.

States consisted of Morocco (which was an independent empire) and the three Ottoman provinces of Tunis, Algiers and Tripoli.¹⁸ All four were pirate kingdoms and were to varying degrees “State” sponsored and ultimately answered to the Sultan of the Ottoman Empire. Therefore, the pirates were operating more like privateers than pirates.¹⁹ This would also indicate that the Barbary pirates were not operating out of desperation or a lack of governance within their states. Religion does not appear to have been a major contributor to the actions of the Barbary pirates other than to say they may have been Muslims.

Somalia, on the other hand, is completely without a ruling government that can exercise control over the country. There is no state sponsor of the pirates and their activities and actions more closely resemble the modern definition of piracy than their Barbary predecessors. Piracy today in Somalia is a large-scale criminal enterprise regardless of the reasons that allow it to flourish.²⁰ Although there is scholarly room for discussion as to whether the Muslim faith plays a role, the Somali-based pirates do not seem to be acting upon any religious faith, but rather are operating out of greed and necessity for pure criminal gains. Most researchers agree that the original cause for Somali based piracy was not faith based. In fact, Islam actually curbed pirate activities of Muslims and non-Muslims alike when Islamic Law was present in Somalia.²¹ The fall of Somalia’s leader, Mohamed Siad Barre, and the failure of the Somali state is what initially triggered the rise of Somali piracy.²²

Today, piracy in the area of the HOA has continued to witness increases in attacks with an increasing trend in violence.ⁱⁱ These attacks persist even with the presence of naval vessels that are actively seeking out the pirates. How are these pirates, sometimes using wooden skiffs,

ⁱⁱ This paper does not address the separate argument that the increased use of force against pirates has had the unintended consequence of raising the level of violence used by the pirates, although this argument warrants review.

able to elude modern naval technology and conduct their maritime crimes? It is a matter of simple arithmetic. No one nation's naval vessels can be everywhere at once. This is why a coalition of all nations capable of participating needs to be involved.

The pirates continue to adapt their methodologies, now using mother ships to operate much farther from shore than previously capable.²³ This allows the pirates to continue their operations even though the Internationally Recommended Transit Corridor (IRTC) has been relocated further from the coastline of Africa.ⁱⁱⁱ Once the pirates are successful, they begin making their way back into the relative safety of the littoral waters of Somalia, evading capture and prosecution. With no viable law enforcement on shore and no legitimate judicial system capable of prosecution, the pirates face no threat from justice.²⁴

Current methods used to counter piracy in the HOA attempt to engage all stakeholders involved. This includes not just international efforts aimed at military intervention, diplomatic efforts, aid and development organizations both governmental and non-governmental, but the shipping industry as well. It is within the shipping companies that the greatest progress has been realized. First, the shipping industry had to adapt procedures that would minimize their exposure to being actively targeted for piracy. They have accomplished this by the formation of organizations such as the International Maritime Bureau (IMB). The IMB serves as a repository through which mariners and shipping companies interact to counter the pirate threat.

Shipping companies have adopted procedural changes in the way security is thought of, such as onboard safe havens on board the ships where the crew can escape to when boarded,

ⁱⁱⁱ The IRTC was established in February 2009 by the Combined Maritime Force to coordinate shipping traffic and allow the naval forces to provide security coverage to those vessels transiting the Gulf of Aden. Vessels were encouraged to transit in groups to discourage piracy. Unfortunately, piracy still occurs within the IRTC even with the presence of grouped vessels.

published security plans for the ships crew, and increased awareness and surveillance practices aboard. These measures attempt to make the intended vessel a harder target and dissuade the pirates from attacking. These good operating measures have been shared with the maritime community to present a united front against pirates. Insurance agencies too, have had an impact on how the shipping industry faces piracy. Enormous increases in premiums have necessitated that shipping companies comply with security practices as set forth by the International Shipping and Port Facility Code.²⁵ Additionally, specific policies for those ships transiting the Gulf of Aden must be purchased.²⁶

There were two major events, which led to the navies of several nations to become engaged in countering piracy in this region.²⁷ The first incident in 2005, gained global attention and provided the occasion for the International Maritime Organization to raise the issue with the UN Security Council was the attack on the cruise liner Seabourn Spirit.²⁸ Although the attack was eventually unsuccessful, it demonstrated the brazenness or perhaps the desperation of the pirates. The second attack and successful hijacking in April 2008 of the French luxury sailing yacht Le Ponant is significant because of the French military response.²⁹ After the ransom had been paid to the pirates, French Special Forces conducted a raid on the gang's village capturing several alleged pirates. The pirates were taken to France and placed on trial for piracy. This action signaled French commitment to seeking an enduring resolution to the problem in Somalia.³⁰ These attacks also elicited more international navies to join the coalition as United Nations resolutions aimed at tackling piracy allowed for a more permissive operating environment.³¹ According to James Kraska in 2008 "almost every nation was being affected by the Somali attacks."³² These effects are manifested in the form of higher energy and consumer goods prices passed on by shippers as the cost of doing business.³³ Two pirate attacks gained

global attention in 2008; the MV Faina carrying 33 Russian tanks and the MV Sirius Star, a Very Large Crude Carrier (VLCC) that was hauling two million barrels of oil destined for the U.S.³⁴ The continued acts of piracy across the spectrum of flagged vessels led to a host of countries sending in warships to protect their country's vessels. The three main military efforts were from NATO, the European Union Naval Forces under Operation Atalanta, and finally in January 2009, Combined Task Force 151 (CTF 151). International coalitions such as the Contact Group on Piracy off the Coast of Somalia were also established, in pursuant to UN Security Council Resolution 1851, "to facilitate the discussion and coordination of actions among states and organizations to suppress piracy off the coast of Somalia. This international forum has brought together more than sixty countries and international organizations all working towards the prevention of piracy off the Somali coast."³⁵

Laws and Authorities

Although the definition of piracy has changed throughout history, it is important to note because it frames the legal context as to what constitutes an act of piracy at sea. With the knowledge of what comprises the criminal act, those vessels active in the repression of piracy can act in a responsible manner within the boundaries of the law. The United Nations Convention on the Law of the Sea of 10 December 1982, Article 101, defines piracy as:

"Any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft against a ship, aircraft, persons or property in a place outside the jurisdiction of any State any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft."³⁶

The authority that allows international members to combat piracy off the coast of Somalia is contained in UN Security Council Resolution (UNSCR) 2020, which was published in 2011. This latest resolution builds upon or extends the previous resolutions that relate to piracy in Somalia, most notably 1846 and 1851, passed in 2008. UNSCR 2020 recognizes the significant contributions made to Somalia by cooperating States who are working jointly to counter piracy in the region, and also provide capacity in Somalia for security, governance, and economic growth. The real teeth in the resolution are found within paragraphs seven and nine. These paragraphs request States take part in counter piracy operations off the coast of Somalia and recognize that these efforts will require the deployment of military assets to accomplish this task. Furthermore, paragraph nine renews authorizations provided for originally in resolution 1851, and re-stated, “States and regional organizations cooperating in the fight against piracy and armed robbery at sea off the coast of Somalia for which advance notification has been provided by the Transitional Federal Government (TFG) to the Secretary-General may undertake all necessary measures that are appropriate *in* Somalia, for the purpose of suppressing acts of piracy and armed robbery at sea.”³⁷ This is critical for two prominent reasons. First, the resolution expands upon the operating parameters that naval vessels can engage under. Ordinarily under the UN Convention of the Law of the Sea (UNCLOS), CTF 151 would not be permitted to follow the pirates into Somali territorial waters, which is defined by UNCLOS as a distance of twelve miles from the coast.³⁸ This is beneficial because it allows maneuvering room where the territorial delineations are very close to the lines of vessel passage. Second, the ability to conduct operations ashore is a vital enabler if the effort is going to achieve assured success in combating Somali piracy. The prosecution of the pirates after apprehending them is equally important in the fight against piracy. UNSCR 2020 likewise affords for the creation of anti-piracy courts in

Somalia. This establishment is an important step to curbing the growth of piracy and punishing those who are profiting from the proceeds of piracy.³⁹ The established authorities provide a legal framework and justification for pursuing piracy beyond the current operational parameters that the coalition is operating under. Present counter piracy strategy does not fully utilize this authority.

Current Operational Strategy

Current U.S. strategy to counter piracy off of the Horn of Africa is a unity of effort operation that draws upon interagency partnerships within the United States and engages with those like-minded countries that have a vested concern in solving the problem.⁴⁰ Through the use of forward deployed maritime assets, the U.S. military is attempting to deter pirate attacks while safeguarding those vessels utilizing the IRTC. In conjunction with those maritime activities, the Contact Group on Piracy off the Coast of Somalia is synchronizing international efforts. These efforts include naval actions, information sharing, instituting a forensic method to follow the economic trail from piracy, and forming a judicial system to begin prosecuting those found responsible for piracy.⁴¹ The coalition is also working with shipping corporations in strengthening their security profile and following those procedures established by the IMB.⁴²

In addition to coalition anti-piracy actions, some international shippers have begun employing private security contractors. Private security companies offer services ranging from on-board personnel to escort vessels.⁴³ The use of private security is not an option accepted by all parties involved in counter-piracy efforts. In their paper, “Operational Challenges to Counter-piracy Operations,” Kees Homan and Susanne Kamerling argue that while there may be some benefits to this technique, the concept is problematic due to legality concerns over weapons

onboard. They also suggest that there is anecdotal evidence that this could result in an escalation of violence on the part of the pirates.⁴⁴ US Navy Rear Admiral Michael Connor, during an address to a class of students at the United States Marine Corps Command and Staff College, expressed an alternative viewpoint when he stated that to his knowledge, “no vessel that had an armed security team aboard has been hijacked.”⁴⁵ If the cost of using private military contractors is less than insurance premiums and paid ransoms, their use may increase. This will require the enactment of new regulations.⁴⁶

Though the presence of the coalition naval forces operating in the region provides a sense of security to ships transiting the region, the vast majority of shipping traffic through the region may never come into contact with pirates or need assistance. This is simply a matter of the vastness of the area. This is similar to ships transiting the North Atlantic during World War II.^{iv} Between the years of 1939 and 1945, one hundred seventy one ships were detained, damaged, or sunk out of the thousands of voyages that were made during this same time.⁴⁷ The similarity of risk speaks to the low incidence of being targeted on the open seas. In the case of being targeted by pirates off of the Somali coast, it is approximately a one percent chance.⁴⁸ Although the chance of being directly targeted by Somali pirates is relatively low, the implications, such as the impact on global energy security, from the threat of piracy are the driving factors that should re-direct existing efforts. The United States and coalition partners should shift current strategy and examine the operational effectiveness that more land based kinetic operations would provide. UNSCR 2020 would permit this type of activity.

^{iv} According to the Merchant Marine historical archives, the number of vessels damaged, detained, or sunk is approximately 1,768 during the period 1939 to 1945. The figures presented in this paper reflect only that portion in the North Atlantic to provide a comparison of risk.

Moving the Engagement Closer to Shore

CTF 151 is the multinational naval task force operating in the Gulf of Aden and off the eastern coast of Somalia that covers an area of approximately 1.1 million square miles and has the authority to expand its mission to the littoral regions of Somalia.⁴⁹ Currently its primary mission is to actively deter, disrupt and suppress piracy to protect global maritime security and secure freedom of navigation for the benefit of all nations.⁵⁰ CTF 151 fulfills its mission within the limits of UNSCR 2020, which authorizes those nations participating in anti-piracy operations and in coordination with the TFG to pursue all appropriate measures necessary in Somalia to counter piracy activity.⁵¹ The United States should seize upon this opportunity to shift its deep-water operations to a strategy that focuses more on the littoral regions.

CTF 151 striking at piracy where it begins on shore is a better use of funds and manpower. Since 2008, the continued reaffirmation of United Nations resolutions has encouraged those nations active in anti-piracy efforts off the coast of Somalia to conduct these types of actions. However, to date this has not been widely pursued with the exception of recent, high profile hostage rescue raids. UNSCR 2020 reaffirmed this legal exception to enter another country's sovereign waters. The amphibious expertise of the United States Marine Corps and the Special Operations Forces are well suited to conduct limited strikes or raids onshore which would target the pirate leadership and strongholds, rather than trying to intercept the activity underway at sea. These specialized units would be able to operate in a joint task force environment to coordinate fires from Navy Expeditionary Combat forces to carry out this mission.⁵² Though combat-type actions are not the most favored approach to resolving the piracy issue, it is the most practical short-term approach to providing an active deterrence to piracy. With the incorporation of African Union forces and semi-autonomous regional partners

into this land-based mission, the coalition is less likely to be seen as conducting unilateral actions in the area and being misperceived as an aggressor. The missions would not be those of a search and destroy nature, but more in line with finding the strongholds and eliminating the pirate's capability to conduct operations at sea. The use of special operations forces is a softer method of approach. Special operations forces are trained in partnering with host country counterparts, thus increasing the state's capacity to counter the criminal activity and employ a Foreign Internal Defense model. This approach will require unity of effort by all invested actors to insure the gradual redevelopment of governance and security to Somalia.⁵³ Special operations forces or Marines on the ground partnering with African nation forces will show the enduring commitment by the coalition far more than remote drone strikes. This combined with the current focus of maritime interdiction and engagement of the pirate mother ships for the same purpose would drastically reduce the Somali pirate fleet.

The reduction in capability would then begin to siphon away funds and resources from the pirate leaders thereby beginning the deliberate process of reducing their capacity to commit the same crimes. The reduction in power would open the door for discussion and discourse with those who had been conducting piracy as a means of survival and allow the government to re-establish itself as the legitimate provider. Once those areas used by pirates as sanctuaries are no longer safe to base from, the criminal activity would begin to subside and become a more manageable statistic. The legal framework for this type of activity is already in place, although current orders do not specifically direct naval forces under CTF 151 to do this.⁵⁴ The coalition should seek ways to suppress the piracy rather than continuing to react to it. To do this, the coalition is focusing on creating a structure that will allow for legal actions after the pirates have

been apprehended. Security must be established prior to attempting to erect this framework for the long-term stabilization to avoid premature collapse.

Long Term Stabilization

Establishing Security and Governance

Somalia must establish a functioning government that can provide basic security functions back to the populace. This is starting to take place in the semi-autonomous regions of Puntland, Galmudug, and Somaliland where functioning governments are forming.

Unfortunately, the TFG that is based in Mogadishu is hampered by almost daily attacks from the Islamic radical elements in al-Shabaab.⁵⁵ The TFG is also hampered by its inability to unify the nation into one government.

The U.S. Department of State is taking a dual track approach to this problem by engaging with both the TFG and regional authorities to build the Somali capacity.⁵⁶ This expanded U.S. engagement with those regional actors brings further stability to the process. The coalition should continue to work with those regional leaders to develop further policing in those regions most plagued by pirate activities. If the current political situation does not permit a unified law enforcement presence, then the coalition should move forward and work with those elements most likely to be successful.

The establishment of a Puntland or Somaliland coast guard, which would act in a law enforcement capacity, may be the least problematic approach to confronting the criminals. The role of the coast guard would be multi-faceted. One primary role is to prevent piracy within sovereign waters of Somalia. Next, the coast guard would prevent those illegal fishing and dumping activities, which many assert as one of the reasons that piracy activity in Somalia began

to flourish.⁵⁷ In working with the TFG and other recognized authorities, the coalition would work towards building the capacity of the fledgling coast guard by providing materiel and subject matter experts to assist in the training of its members. In patrolling its own coastline, the Somalis will impact the piracy activity and begin the slow process of reducing the frequency of piracy to an acceptable level. In most cases, this means that the criminal acts are not impacting freedom of navigation and not posing a credible threat to the lives of seafarers.

Since Somali piracy is considered primarily a symptom of the larger problem of the failed state of Somalia, the international community should consider a long-term solution to the problem beyond treating just the symptom.⁵⁸ This is not to say that once Somalia is considered a recovering state that piracy would vanish. The capacity for the criminal activity would be reduced to a crime and be a national concern, rather than the regional problem that ripples around the world reaching all seafaring nations. These durable solutions will establish security; form a unity government, judicial reform, and economic development.⁵⁹

Law and Justice

It is not feasible to believe that the international coalition will bring an end to piracy in the region by shifting their focus to on shore operations aimed solely at dynamic type activities. The United States Marine Corps or Special Operations Forces poised offshore of Puntland or Somaliland prepared to conduct military strikes from a large US Naval amphibious ship may have the desired deterrence effect on the pirates, but it is also an approach that will more than likely garner global condemnation. The strategy forward should be a hybrid of coalition intervention on shore combined with a local partnership with those security forces in Somalia already trying to develop and improve their capabilities. With the consent of the TFG and the

backing of coalition partners, to include African Union states, the establishment of coalition onshore piracy patrols would be the beginning of a Somali-based law enforcement presence where the crime originate on land. The TFG however is in a fragile stage and is off-balanced by the daily attack from elements of al-Shabaab.⁶⁰ The effort would need to be coordinated with subnational members, regional authorities, and the TFG to have legitimacy and viability. This is not an easy task and will take time to establish.

The semi-autonomous region, Puntland, where the majority of pirates operate from, may be the essential starting point to begin deterring or preventing the piracy, rather than reacting on the high seas. A comprehensive approach to the problem must navigate through international and legal hurdles first. The fact is that Puntland is not formally recognized by the international community, so most activities that do not go through the TFG, are not currently feasible. The international community needs to seek innovative ways to overcome this hurdle. Working with the Puntland government may be the best chance the international community has at making a difference against the pirates in the short and mid term. As of January 2012, the Puntland Marine Police Force (PMPF) was embarking on missions within Puntland to begin targeting pirates who are smuggling people from Puntland to Yemen. According to Abdirisak Mohamed Mohamoud, Commander of the PMPF, these forces would soon be targeting land based piracy operations as well.⁶¹ Reportedly, the other semi-autonomous region of Somaliland is also preparing and training a maritime police force for the purpose of interdicting the pirates both on land and at sea.⁶² Neither of these government's police forces report being assisted by outside aid organizations or nations that are currently engaged in anti-piracy operations. It should be recognized, however, that apprehending the pirates is not the final step to solving the problem. A comprehensive judicial approach is required to bring those responsible to justice.

Currently, when maritime security patrols encounter piracy or respond to an attack in progress, they are very effective at deterring the activity and bringing a resolution to the event. Once the pirates have been interdicted, the procedures are less clear. Since there is some ambiguity over which nations will accept these pirates for prosecution, the perpetrators are often released. This is certainly the case when pirates have been captured before they can take a ship hostage and no damage or injury has occurred. Typically, the maritime interdiction will include the removal of those tools with which they are conducting the activity, i.e., weapons, ladders, grappling ropes, and in some cases, the wooden boats or skiffs themselves. The pirate crew is then released and allowed to depart the area or return to shore. Since Somalia does not have a unified government capable of controlling or prosecuting these criminals, many times they return to their bases, acquire more equipment, and head back out to conduct more piracy. There are almost no instances where the criminal leaders of these pirate factions face any type of judicial punishment.⁶³

The establishment of a legitimate court system in which these pirates can be prosecuted for their criminal activity within Somalia will enable Somalia to have impartial judicial punishment to those apprehended and convicted of piracy. This court system would lift a large portion of the burden and current dilemma faced by the coalition of what to do with the pirates once they have been captured. This progress would also show goodwill towards those other African nations that have prosecuted some of the pirates on behalf of the coalition in recent years.⁶⁴ Funding is a hurdle that will be confronted early on. One method, which has been used in the United States' prosecution of the drug war, is to seize those assets that have been used or derived from the commission of the crime. Since piracy is a crime, it would stand to reason that Somalia could pursue this approach. Before this can be done, the Somali legislature needs to

enact a legal procedure to do this, otherwise the legitimacy of the action is called into question and could derail the efforts of the government and is seen as further corruption rather than good legal practice.⁶⁵

Economic Development

The long-term solution to this problem is not in intercepting pirates at sea or in the prosecution of those criminal elements responsible for its activities. A durable solution comes from changing the economic landscape of Somalia itself. No amount of interdiction will slow piracy unless there is another way for those involved to support themselves and their families. An example of how deeply entrenched piracy has become in Somalia is the “Pirate Stock Exchange” in Harardheere. In 2009 the exchange was established to allow investors to profit from pirate attacks and ransoms earned from the taking of hostages.⁶⁶ Any villager can take part in investments of pirate hijackings with the probability of large payouts for success. This has changed the economic landscape of this town and has provided an illicit economy built solely on crime and its proceeds. The Somali government will need to dismantle such “exchanges” and deter future enterprises from occurring. To do this will require a functioning government that the various clans and semi-autonomous regions can get behind and support. The US and the European Union continue to establish closer ties with the struggling government body TFG. The support for the TFG by the various factions in Somalia, however, is questionable. It may have been this lack of governance that led directly to the surge in Somali piracy.

Since 1991, when the government of Somalia collapsed under the pressure of clan conflicts, the legitimate economy has been almost non-existent. The lack of governance allowed local and foreign fishing vessels to take advantage and overfish Somali waters. The local

populace was powerless to stop them from overfishing those grounds that once provided subsistence.⁶⁷ This situation enabled the volunteer coast guard to establish themselves as protectors of the exclusive economic zone (EEZ), which quickly became piracy as the coast guard began detaining any vessel and demanding payment for passage and the right to fish the area.⁶⁸ Corruption and lack of governmental control are also credited for the extent of toxic waste dumping taking place off the coast of Somalia without regard for the damage it would inflict on the economic livelihood of the coastal villages.⁶⁹ A unified government in coordination with national leaders could help stop this environmental and economic disaster in the making. Economic recovery is going to be one of the contributing factors to reducing pirate activity to minimal levels.

A system of schools or vocational training centers will be required to train those individuals who had been conducting piracy to provide them with new skills and give them a second chance. With these new skills they can leave the lifestyle of piracy and begin more legitimate pursuits and bolster their local economies.⁷⁰ This change will not be one that occurs overnight. It may be a process that takes a generation to change due to the tendencies for a return to a certain criminal lifestyle. Regardless of what the face of economic development looks like, it must be one that is Somali. This needs to be a Somali solution that is supported by the Somali clans and regional powers in order to be effective at gaining a lasting change. Somalia has been a fractured and failed state since 1991. It is not realistic to expect that the situation will improve overnight, or even within a decade. This may be a development that demands the world's attention for decades to come.⁷¹

Conclusion

The problem of Somali piracy is not easily or quickly resolved. It is a complex problem that requires international partnership. While international partnership is paramount, the solution resides with Somalia and its people. Anything less would most likely lead to further failure. Piracy must be approached as a symptom rather than a cause for the problems in Somalia. Clearly, the failure of the Somali state is the root cause of the problem. In order to stem the piracy activity, the international community must help Somalia recover from its descent into anarchy.

There are several obstacles on the road to recovery. Those impediments are inter-clan rivalries, terrorism, external states invading Somali lands, and breakaway republics within Somalia. Unifying the Somali government may not be the most effective way forward in stabilizing Somalia. There are clear indications that those regions that have separated are moving forward in establishing working governments to include launching efforts to curb piracy in their regions.⁷² International recognition of these semi-autonomous regions would further complicate the unification process and possibly bring about a resurgence of piracy in those areas where it is being combatted.

This paper illustrates that strictly enforcing anti-piracy efforts at sea while ignoring anti-piracy efforts on shore will result in failure. A balanced approach to combatting piracy must be realized in order to be effective. Piracy is a crime, and like all crime needs to be prosecuted in such a way that the risk of committing the crime is so substantial that it deters most persons from attempting it. Part of this deterrence is to move our coalition efforts at combatting piracy ashore.

This is where piracy begins, and where the coalition will find the most success in fighting it. The TFG will be a key element to an engagement on shore.

Some doubts remain as to whether the TFG, which is seen as very fragile, can unify the nation and establish a functioning government that is capable of providing stability and sovereignty to Somalia. Adherence to the Djibouti Peace Process, which ended conflict between the Alliance for the Re-liberation of Somalia (ARS) and the TFG, is working towards reunification of Somalia. The international community will need to be patient as this process works, which means continuing efforts will be required to combat piracy, whether on shore or at sea. Ultimately, this is a Somali problem that must be addressed by Somalia, but one that has ramifications for the world if the efforts fail.

The international community and naval coalitions should develop new strategies to shift the focus of anti-piracy efforts onto shore. This approach will address both the criminal nature of piracy and allow for the focus of development to move towards prosecution and rehabilitation of pirates. A possible roadmap for this recovery follows. First, Somalia must become a unified government capable of governing. The international community should continue to encourage all stakeholders in Somalia to continue their efforts at unification. The international community should also encourage those neighboring African nations to resist encroaching upon Somalia and allow the country to recover. Second, the combined forces should begin operating closer to the Somali coastline to interdict the pirate ships as they make their way out of their homeports. Direct cooperation with the authorities in Puntland and Somaliland to increase their capacity would be a force multiplier. Third, Somalia must seek ways to develop economically with the assistance of the international community. Continued poverty will hamper any efforts at stabilization and increase the risk of further fracture within Somalia leaving the opportunity for

any gains against piracy to be lost. Lastly, Somali piracy is a rapidly shifting dynamic, which is not easy to address quickly. This stresses the importance of international cooperation and unity in its efforts to combat this global problem.

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